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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA
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7 CHARLES ADRIAN FORD,

Case No. 2:17-cv-00112-RFB-VCF

8 *Petitioner,*

ORDER

9 vs.

10
11 STATE OF NEVADA, *et al.,*

12 *Respondents.*
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14 Following upon the entry of appearance (ECF No. 10) by the Federal Public Defender,
15 IT IS ORDERED that the Federal Public Defender, through Kimberly Sandberg, Esq.,
16 is appointed as counsel for petitioner pursuant to 18 U.S.C. § 3006A(a)(2)(B). Counsel will
17 represent petitioner in all federal proceedings related to this matter, including any appeals or
18 *certiorari* proceedings, unless allowed to withdraw.

19 IT IS FURTHER ORDERED that petitioner shall have until up to and including **one**
20 **hundred twenty (120) days** from entry of this order within which to file an amended petition
21 and/or seek other appropriate relief.¹ Neither the foregoing deadline nor any extension
22 thereof signifies or will signify any implied finding as to the expiration of the federal limitation
23 period and/or of a basis for tolling during the time period established. Petitioner at all times
24 remains responsible for calculating the running of the federal limitation period and timely
25 asserting claims, without regard to any deadlines established or extensions granted herein.
26 That is, by setting a deadline to amend the petition and/or by granting any extension thereof,
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28 ¹As noted in the prior order (ECF No. 7), the petitioner's warden should be named as an additional respondent in any amended petition.

1 the Court makes no finding or representation that the petition, any amendments thereto,
2 and/or any claims contained therein are not subject to dismissal as untimely. See *Sossa v.*
3 *Diaz*, 729 F.3d 1225, 1235 (9th Cir. 2013).

4 IT IS FURTHER ORDERED that respondents shall file a response to the amended
5 petition, including potentially by motion to dismiss, within **sixty (60) days** of service of an
6 amended petition and that petitioner may file a reply within **thirty (30) days** of service of an
7 answer. The response and reply time to any motion filed by either party, including a motion
8 filed in lieu of a pleading, shall be governed instead by Local Rule LR 7-2(b).

9 IT IS FURTHER ORDERED that any procedural defenses raised by respondents to
10 the counseled amended petition shall be raised together in a single consolidated motion to
11 dismiss. In other words, the Court does not wish to address any procedural defenses raised
12 herein either in *seriatum* fashion in multiple successive motions to dismiss or embedded in
13 the answer. Procedural defenses omitted from such motion to dismiss will be subject to
14 potential waiver. Respondents shall not file a response in this case that consolidates their
15 procedural defenses, if any, with their response on the merits, except pursuant to 28 U.S.C.
16 § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents do seek
17 dismissal of unexhausted claims under § 2254(b)(2): (a) they shall do so within the single
18 motion to dismiss not in the answer; and (b) they shall specifically direct their argument to the
19 standard for dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*, 406 F.3d 614,
20 623-24 (9th Cir. 2005). In short, no procedural defenses, including exhaustion, shall be
21 included with the merits in an answer. All procedural defenses, including exhaustion, instead
22 must be raised by motion to dismiss.

23 IT IS FURTHER ORDERED that, in any answer filed on the merits, respondents shall
24 specifically cite to and address the applicable state court written decision and state court
25 record materials, if any, regarding each claim within the response as to that claim.

26 IT IS FURTHER ORDERED that any state court record and related exhibits filed herein
27 by either petitioner or respondents shall be filed with a separate index of exhibits identifying
28 the exhibits by number. The CM/ECF attachments that are filed further shall be identified by

1 the number or numbers of the exhibits in the attachment. If the exhibits filed will span more
2 than one ECF Number in the record, the first document under each successive ECF Number
3 shall be either another copy of the index, a volume cover page, or some other document
4 serving as a filler, so that each exhibit under the ECF Number thereafter will be listed under
5 an attachment number (*i.e.*, Attachment 1, 2, etc.).

6 IT IS FURTHER ORDERED that the hard copy of any exhibits filed by either counsel
7 shall be delivered – for this case – to the **Reno Clerk's Office**.

8 DATED this 28th day of June, 2018.

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RICHARD F. BOULWARE, II
United States District Judge